IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19949 of 2004

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Between:

Smt.Anees Sultana, W/o.Mr.Md.Yousuf,
R/o.H.No.12-5-35/C/14/1, Dr.Ambedkarnagar, Vijayapuri,
Taranaka, Secunderabad.

..... PETITIONER

AND

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1 The City Planner, Municipal Corporation of Hyderabad,
Secunderabad Division, Secunderabad.
2 Mr.Yadarigi,
R/o. South side of petitioner's H.No.12-5-35/C/14/1,
Dr.Ambedkarnagar, Vijayapuri,Taranaka, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus declaring the inaction of the 1st respondent in demolishing the illegal constructions made by the 2nd respondent by encroaching the petitioner's 2.6 feet land left over on the sourthern side of the petitioner's House No.12-5-35/ C/14/1, situated at Dr. Ambedkar Nagar, Vijayapuri, Taranaka, Secunderabad, as illegal, arbitrary, null and void and consequently direct the 1st Respondent to take action forthwith on the basis of the petitioner's representations and to demolish illegal constructions made by the 2nd respondent forthwith.

Counsel for the Petitioner: SMT.S.V.INDIRA

Counsel for the Respondent No.1: SMT.G.JYOTHI KIRAN

Counsel for the Respondent No.2: ----

The Court at the stage of admission made the following :

ORDER:

The Writ Petition is misconceived. If the petitioner aggrieved by the action of the second respondent in encroaching his land by making unauthorized constructions, the proper remedy for the petitioner is to move competent civil Court for appropriate relief. The petitioner has justified his action in moving this court stating that though he made a representation to the Municipal Corporation, it has not taken any action on the said representation in removing the unauthorized constructions made by second respondent in the land of the petitioner.

It is well settled that the Municipal Corporation is no way concerned with the civil

dispute between the plot owners. Whether the second respondent has encroached into the lands of the petitioner by constructing a wall with drainage pipeline laid with manhole affecting his easementary rights, or not, is a matter to be decided by a competent civil Court. But in this writ petition no relief can be granted to the petitioner. The petitioner is at liberty to move the civil Court for appropriate relief.

Accordingly the Writ Petition is dismissed. No costs.

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A. Gopal Reddy, J.

2nd November, 2004.

Js.

ASSISTANT REGISTRAR

To

1 The City Planner, Municipal Corporation of Hyderabad,
Secunderabad Division, Secunderabad.

2 Two CD Copies